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OFFICIAL DOCUMENTS

PROJECT DRAFTED BY THE INSTITUTE OF INTERNATIONAL LAW FOR THE REGULATION OF AËROSTATS AND WIRELESS TELEGRAPHY

(Session at Ghent, September 24, 1906)

Preliminary Provisions [1]

Art. 1. The air is free. States have no authority over it, in time of peace or in time of war, other than that which is necessary for their own preservation.

Art. 2. In the absence of special provisions, the rules which apply to ordinary telegraphic correspondence apply to wireless telegraphic correspondence.

First Part

In Time of Peace

Art. 3. Every state has the power, in so far as it is necessary for its safety, to forbid the passage of Hertzian waves over its territory and its territorial waters, and to such height as may be advisable, whether these waves proceed from a government or a private apparatus placed on land, on board a vessel or in a balloon.

Art. 4. When correspondence by wireless telegraph is forbidden, the government must immediately inform the other governments of such prohibition.

Second Part

In Time of War

Art. 5. The rules in effect for times of peace apply, in principle, to times of war.

Art. 6. Belligerents may prevent the sending of waves, even by a neutral subject, on the high seas, in the zone which corresponds to the sphere of action of their military operations.

[1] Translated from *Annuaire de l'Institut de Droit International*, 1906, p. 327.

Art. 7. Individuals who, in spite of the belligerent's prohibition, persist in transmitting or receiving despatches by wireless telegraph between the various sections of an army or of a belligerent territory, are, if captured, not considered spies, but treated as prisoners of war. Not so, however, if the correspondence is carried on under false pretenses.

Bearers of despatches transmitted by wireless telegraph are classed as spies when they employ dissimulation or ruses.

Neutral vessels and balloons which, by their communications with the enemy, may be considered as having put themselves at his service, as well as their despatches and apparatus, may be confiscated. Neutral subjects, vessels, and balloons, if it is not proved that their correspondence was intended to furnish the enemy with information concerning the conduct of hostilities, may be removed from the zone of operations and their apparatus seized and sequestered.

Art. 8. A neutral state is not obliged to forbid the passage above its territory of Hertzian waves whose destination is a country which is at war.

Art. 9. It is the right and the duty of a neutral country to close or to take charge of the establishment of a belligerent state, which it had authorized to operate in its territory.

Art. 10. Belligerents must immediately notify neutral governments whenever they prohibit communication by wireless telegraph.

DRAFT CONVENTION ON THE JURIDICAL REGULATION OF AËROSTATS [1]

By M. Paul Fauchille

First Part

Regulation of Aërostats in Time of Peace

Chapter I. *Aërostats*

1. (Art. 1.) Aërostats are either public or private. Public aërostats are either military or civil.

Aërostats assigned by the state to military service and under the command of an army or naval officer in uniform are considered military aërostats. All military aërostats must have in plain sight on their envelope a distinctive mark showing their character.

[1] *Revue Juridique International de la Locomotion Aérienne*, Vol. II, p. 206.